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and Third-Party Defendant NARGIS NUSRATY  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GUCCI AMERICA, INC., a NEW YORK corporation,

Case No. 08-CV-4451 (DC)

Plaintiff,

**THIRD-PARTY ANSWER**

-against-

NANCY OLICKER, individually, d/b/a  
SAMPLE SALE PRODUCTIONS d/b/a  
SAMPLESALEPRODUCTIONS.COM; SAMPLE  
SALE PRODUCTIONS, LLC, a NEW YORK limited  
liability company, d/b/a SAMPLE SALE PRODUCTIONS  
d/b/a SAMPLESALEPRODUCTIONS.COM and  
DOES 1-10,

Defendants.

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SAMPLE SALE PRODUCTIONS, LLC,

Third-Party Plaintiff,

-against-

NUSRATY CORP. and NARGIS NUSRATY,

Third-Party Defendants.

-----X

Third-Party Defendants Nusraty Corp. and Nargis Nusraty, by their attorneys,  
Dilworth & Barrese, LLP, for their third-party answer to the complaint of third-party  
plaintiff Sample Sale Productions, LLC:

1. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Third-Party Complaint.
2. Admit the allegation contained in paragraph 17 of the Third-Party Complaint.
3. Deny the allegations contained in paragraph 18 of the Third-Party Complaint.
4. Paragraph 19 of the Third-Party Complaint sets forth legal conclusions to which no response is required.
5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the Third-Party Complaint.
6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of the Third-Party Complaint.
7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the Third-Party Complaint.
8. Deny the allegations contained in paragraph 23 of the Third-Party Complaint.
9. Deny the allegations contained in paragraph 24 of the Third-Party Complaint.
10. Deny knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 25 of the Third-Party Complaint as it relates to the liability of Sample Sale to Gucci and deny the remaining allegations contained in paragraph 25 of the Third-Party Complaint.

11. Deny each and every allegation of the Third-Party Complaint not expressly admitted herein.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

12. Third-Party Plaintiff's authority to carry on, conduct or transact business in the State of New York has been suspended as a result of Third-Party Plaintiff's failure to comply with the notice publication requirements of the New York Limited Liability Company Law, and therefore Third-Party Plaintiff is unable to proceed with its claims in this action.

**SECOND AFFIRMATIVE DEFENSE**

13. The Third-Party Complaint fails to state a claim against Third-Party Defendants upon which relief can be granted.

**THIRD AFFIRMATIVE DEFENSE**

14. The claims against Third-Party Defendant Nargis Nusraty are barred because at all times Nargis Nusraty acted in her capacity as an officer of Nusraty Corp. and not in her individual capacity.

**FOURTH AFFIRMATIVE DEFENSE**

15. Third-Party Plaintiff's demand for judgment against Third-Party Defendants for any damages, which may be assessed against Sample Sale in favor of plaintiff Gucci should be dismissed because Third-Party Defendants did not engage in any conduct warranting the imposition of damages.

**FIFTH AFFIRMATIVE DEFENSE**

16. Third-Party Plaintiff's equitable claims in the Third-Party Complaint are barred in whole or in part by the doctrine of unclean hands.

**SIXTH AFFIRMATIVE DEFENSE**

17. Third-Party Plaintiff's demand for costs and attorney's fees should be dismissed because Third-Party Defendants did not engage in any conduct warranting the imposition of the sanction of costs and attorney's fees.

**SEVENTH AFFIRMATIVE DEFENSE**

18. Third-Party Plaintiff's claims are barred under the first sale doctrine because any goods which may have been sold by Third-Party Defendants during the sample sales conducted by Sample Sale were owned by and lawfully acquired by Third-Party Defendant, NUSRATY CORP.

**EIGHTH AFFIRMATIVE DEFENSE**

19. Third-Party Plaintiff's claims are barred, in whole or in part, by the doctrine of estoppel.

**NINTH AFFIRMATIVE DEFENSE**

20. Third-Party Plaintiff's claims are barred, in whole or in part, by the doctrine of acquiescence.

**TENTH AFFIRMATIVE DEFENSE**

21. Third-Party Plaintiff's claims are barred, in whole or in part, by the doctrine of waiver.

WHEREFORE, Third-Party Defendants Nargis Nusraty and Nusraty Corp.

demand judgment:

- A. Dismissing the Third-Party Complaint; and
- B. For such other and further relief as the Court may deem just and proper.

Dated: Uniondale, New York  
July 10, 2008

DILWORTH & BARRESE, LLP

By: \_\_\_\_\_

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Attorneys for Plaintiff Gucci America, Inc.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing:

**THIRD-PARTY ANSWER**

was served via first-class mail, this 10<sup>th</sup> day of July, 2008, on the following:

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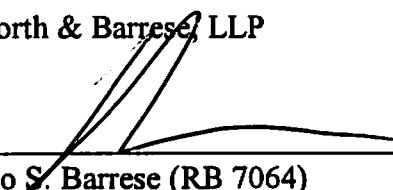
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